

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SAMUEL DANTZLER,

Plaintiff,

v.

SHERMAN CAMPBELL,¹

Defendant.

Case No. 13-cv-14764
Honorable Laurie J. Michelson

**ORDER GRANTING PETITIONER'S MOTION TO LIFT STAY AND AMEND
PETITION [11], AMENDING CASE CAPTION [15], AND DENYING WITHOUT
PREJUDICE PETITIONER'S MOTION FOR EVIDENTIARY HEARING [14]**

Samuel Dantzler, a Michigan state prisoner, filed a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 in 2013. (R. 1.) In August 2014, this Court granted Dantzler's motion for a stay to allow him to pursue state court remedies with respect to certain claims. (R. 10.) Petitioner has since exhausted state court remedies with respect to those claims (R. 11, PID 1507), and now asks the Court to reopen this case. (R. 11.)

This Court may reopen and reinstate a habeas proceeding upon a timely request from the Petitioner. *See, e.g., Rodriguez v. Jones*, 625 F. Supp. 2d 552, 560 (E.D. Mich. 2009). Petitioner has exhausted his state-court remedies for the new claims he wishes to add and has timely filed a motion to reopen his case. He has also attached an Amended Petition to his motion. The Amended Petition is therefore ripe for consideration. Accordingly, the Court will order that the case be reopened and will grant Petitioner's motion to amend the Petition.

¹ The Court hereby amends the case caption to reflect the current warden of Petitioner's correctional facility. *See Edwards v. Johns*, 450 F. Supp. 2d 755, 757 (E.D. Mich. 2006).

The Court will not grant Petitioner an evidentiary hearing at this time. Rule 8(a) of the rules governing habeas petitions provides, “If the petition is not dismissed, the judge must review the answer, any transcripts and records of state-court proceedings, and any materials submitted under Rule 7 to determine whether an evidentiary hearing is warranted.” The Court has not yet conducted this review as to the Amended Petition. Accordingly, the Court will reconsider such a request after Respondent files his answer, if any, to the Amended Petition.

Accordingly, IT IS ORDERED that the motion to lift stay and amend petition (R. 11) is GRANTED and this case is reinstated to the Court’s active docket.

IT IS FURTHER ORDERED that the Clerk of Court shall serve a copy of the Amended Petition (R. 11) on the Attorney General for the State of Michigan, Appellate Division.

IT IS FURTHER ORDERED that Respondent shall file a responsive pleading and Rule 5 materials within ninety days of this order.

IT IS FURTHER ORDERED that Petitioner’s motion for evidentiary hearing (R. 14) is DENIED WITHOUT PREJUDICE.

SO ORDERED.

Dated: January 25, 2017

s/Laurie J. Michelson
LAURIE J. MICHELSON
U.S. DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court’s ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on January 25, 2017.

s/Keisha Jackson
Case Manager